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13 *Attorneys for Plaintiff*

14 IN THE UNITED STATES DISTRICT COURT  
15 FOR THE DISTRICT OF MONTANA  
16 MISSOULA DIVISION

17 ALLIANCE FOR THE WILD  
18 ROCKIES,

19 Plaintiff,

20 CV 17-64-DLC

21 v.

22 DECLARATION OF TIMOTHY  
23 BECHTOLD

24 ENVIRONMENTAL  
25 PROTECTION AGENCY,  
26 Defendant.

27 Pursuant to 28 U.S.C. § 1746, I, Timothy Bechtold, declare as follows:

- 28 1. I make this declaration in support of the petition for attorney fees and other  
29 expenses filed by Plaintiff in this case. I am co-counsel on this case, and  
30 competent to make this Declaration.
- 31 2. I received an A.B. from Harvard College in 1984. My academic concentration  
32 was biology, with a focus on ecology. I received an M.S. in Environmental  
33 Studies from the University of Montana in 1992. My academic focus while in

1 this master's program was public land use policy and law. My master's thesis  
 2 was an analysis of timber management on the former Northern Pacific  
 3 landgrant in Montana. I received a J.D. with high honors from the University  
 4 of Montana in 2000, and was admitted to the Montana bar on October 6, 2000.  
 5 While in law school, I was editor of the *Public Land and Resources Law*  
*Review*, and published a law review article on the listing of the bull trout under  
 the Endangered Species Act.

6 3. After graduation from law school, I clerked for the Honorable Donald W.  
 7 Molloy, then Chief Judge of the District of Montana, for two years. During the  
 8 course of this clerkship I also had opportunity to assist Judge Molloy when he  
 9 sat with the Ninth Circuit.

10 4. After my clerkship with Judge Molloy, I entered into private practice on  
 11 September 1, 2002 with the law firm of Rossbach Brennan, PC, which became  
 12 Rossbach Hart Bechtold, PC in November, 2003. In January, 2008 I left  
 13 Rossbach Hart Bechtold, PC and formed a solo practice, Bechtold Law Firm,  
 PLLC.

14 5. I was chairman of the Federal Practice Section of the Montana State Bar  
 15 Association from 2004-2012, and was President of the Montana Chapter of the  
 16 Federal Bar Association from 2010-2012. I was also a member of the Local  
 17 Rules Committee for the District of Montana from 2001-2006. I have served on  
 18 the Board of Directors of the Montana Trial Lawyers Association since 2010,  
 19 and I am currently the immediate Past-President of the Board of the Montana  
 Trial Lawyers Association. I am rated Martindale-Hubbard AV-Preeminent,  
 am a National Trial Lawyer Top 100 Trial Lawyer, a Lifetime Who's Who Top  
 Lawyer, and I am a Life Fellow of the American Bar Foundation.

20 6. I am admitted to practice in the State of Montana, the United States District  
 21 Court for the District of Montana, the United States District Court for the  
 22 District of Colorado, and the Second, Third, Sixth, Ninth, Tenth, and District of  
 23 Columbia Circuit Courts of Appeals. Additionally, I have appeared *pro hac*  
 24 *vice* in district court litigation in Alaska, Oregon, Washington, California,  
 Utah, Kentucky, Pennsylvania, and the District of Columbia.

25 7. I specialize primarily in the litigation of environmental matters. I have taught a  
 26 graduate-level seminar on the National Forest Management Act and the  
 National Environmental Policy Act at the University of Montana, I have been a  
 guest lecturer on environmental topics at the University of Montana School of

1 Law and the Vermont Law School, and I have presented on environmental  
 2 topics at Continuing Legal Education seminars. My case load includes suits  
 3 involving environmental restoration and remediation, management of federal  
 4 public land and wildlife, land use, citizen suits under the Clean Water Act, as  
 5 well as suits brought under the citizen suit and cost recovery provisions of  
 CERCLA and RCRA.

- 6 8. Representative federal cases on which I have been actively involved as an  
 7 attorney include *Montanans for Multiple Use v. Barbouletos*, 568 F.3d 225  
 8 (D.C. Cir. 2009) (representing defendant-intervenors in challenge to Forest  
 9 Service authority to manage various aspects of the Flathead National Forest  
 10 based on, *inter alia*, Organic Act and Multiple Use Sustained Yield Act );  
 11 *Cabinet Resources Group v. Asarco*, CV 02-209-M-DWM (D. Mont.)(a case  
 12 alleging violations of RCRA and CERCLA, eventually settled in bankruptcy);  
 13 *Friends of the Wild Swan v. US Forest Service*, CV 03-161-M-DWM (D.  
 14 Mont.); *Swan View Coalition v. Barbouletos*, CV 03-112-M-DWM (D. Mont.),  
 15 348 Fed.Appx. 295 (9th Cir. 2009)(requiring the Forest Service to establish a  
 16 standard when forest uses compete with grizzly bears); *Forest Service*  
 17 *Employees for Environmental Ethics v. US Forest Service*, 397 F.Supp.2d 391  
 18 (D. Mont. 2005)(requiring Forest Service to comply with NEPA and ESA for  
 19 aerial application of fire retardant); *Forest Service Employees for*  
 20 *Environmental Ethics v. US Forest Service*, 530 F.Supp.2d 1126 (D.Mont.  
 21 2008)(contempt hearing appropriate for Forest Service's failure to comply with  
 22 court order); *Forest Service Employees for Environmental Ethics v. US Forest*  
 23 *Service*, 726 F.Supp.2d 1195 (D.Mont 2010)(Forest Service violated NEPA,  
 24 NFMA, and ESA in preparing fire retardant EA); *Alliance for the Wild*  
 25 *Rockies v. Bradford*, 720 F.Supp.2d 1193 (D.Mont 2010) (Kootenai National  
 26 Forest violated NEPA, NFMA, and ESA in preparing three timber sale  
 projects); *Alliance for the Wild Rockies v. Lyder*, 726 F.Supp.2d 1126 (D.Mont.  
 2010)(U.S. Fish & Wildlife Service critical habitat designation for lynx  
 insufficient); *Alliance for the Wild Rockies v. Krueger*, 950 F.Supp.2d 1172  
 (D.Mont. 2013)(federal agencies must conduct consultation for migratory  
 species). *Swan View Coalition v. Weber*, 52 F.Supp.3d 1133 (D. Mont.  
 2014)(federal agency must conform to law on newly-acquired lands); *Alliance*  
*for the Wild Rockies v. USDA*, 772 F.3d 592 (9th Cir. 2014)(complaints may be  
 amended to include ESA claims after 60-day notice runs); *Wildearth*  
*Guardians v. U.S. Department of the Interior*, 205 F.Supp.3d 1176 (D. Mont  
 2016)(U.S. Fish & Wildlife Service critical habitat designation for lynx  
 insufficient); *Alliance for the Wild Rockies v. Bradford*, 856 F.3d 1238 (9<sup>th</sup> Cir.  
 2017)(ineffective road closures violate NFMA and ESA); *Alliance for the Wild*

Rockies v. Marten, 253 F.Supp.3d 1108 (D. Mont. 2017)(injunction warranted for logging project in lynx critical habitat); *Alliance for the Wild Rockies v. Zinke*, 265 F.Supp.3d 1161 (D. Mont. 2017)(not warranted finding by FWS for Cabinet-Yaak grizzly bear population was arbitrary and capricious).

9. The area of federal environmental litigation is complex and specialized. It requires an understanding of the complexities of federal case law, statutes, and regulations.
10. I have litigated issues specific to bull trout and critical habitat in numerous cases, and have acquired highly-relevant knowledge of both the biology of bull trout and the habitat needs of bull trout in addition to the legal aspects of identifying and designating critical habitat for listed species.
11. I am considered a specialist with distinctive skills in environmental law by environmental and conservation advocacy organizations, and my legal services are highly sought after by these organizations.
12. Because environmental litigation is an area of my specialty, as well as the specialty of co-counsel Kristine Akland, we were able to litigate this matter efficiently and effectively. Because I am in private practice and do not earn a salary from an organization, I carry a heavy caseload that requires me to allocate my time efficiently. In this case, we obtained a favorable result for our clients while expending very reasonable hours.
13. I am requesting to be compensated at an hourly rate of \$365 for district court work in 2016, \$390 for district court work in 2017, and \$415 for district court work in 2018. These are reasonable rates for my level of skill and expertise. Moreover, these rates are based on the rates awarded me by this Court and the Ninth Circuit for prior litigation work and reflect cost of living and expertise enhancements. The Ninth Circuit Appellate Commissioner has determined that it is reasonable to increase hourly rates \$25 each year for specialized environmental work. *Pollinator Stewardship Council v. U.S. EPA*, 2017 WL 3096105 at \*6 (9<sup>th</sup> Cir 2017).
14. I maintain detailed, contemporaneous daily records for each tenth of an hour of work time. These records are broken down by time expended and general purpose of the work. The daily records of my work accompany this declaration as Exhibit 1.

1 15. In reviewing the daily time records for work performed in connection with this  
2 case, I have exercised billing judgment and eliminated excess and duplicative  
3 entries.

4 16. In my opinion, the professional hours detailed in my daily records that I am  
5 submitting to the Court were reasonable and necessarily expended for the  
6 preparation and successful presentation of this case. In my opinion, these  
7 hours represent time that would properly be charged to a commercial client.  
8 As detailed in Attachment 1, the total number of hours expended is 23.7. At  
the rates explained above, and as detailed in Exhibit 1, my total fee request at  
this time is for \$9273.00.

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10 I declare under penalty of perjury that the foregoing is true and correct.  
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12 Dated this 20th day of February, 2018.  
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15 /s/Timothy M. Bechtold  
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Date	Description	Rate	Time Billed	Amount billed
5/19/2016	call w Mike Garrity re BT CH	365	0.30	109.50
8/23/2016	emails w Mike re CH and issues	365	0.40	146.00
9/21/2016	call w Mike Garrity re BT CH	365	0.20	73.00
10/27/2016	research EPA operation re BT	365	3.60	1,314.00
1/24/2017	review ROD	390	2.20	858.00
1/24/2017	revise 60-day	390	0.50	195.00
2/12/2017	EPA article, call w Mike	390	0.30	117.00
3/17/2017	EPA article, conf w Kristine, call w Mike	390	0.30	117.00
4/27/2017	EPA response	390	0.20	78.00
4/27/2017	conf Kristine, call w Mike	390	0.40	156.00
4/28/2017	review ROD	390	0.50	195.00
5/15/2017	conf w Kristine status, strategy	390	0.20	78.00
5/15/2017	revise complaint	390	1.00	390.00
5/15/2017	EPA foia response	390	0.20	78.00
5/16/2017	complaint and summons	390	0.10	39.00
5/18/2017	revise 60-day notices	390	0.40	156.00
5/18/2017	call w Mike re status	390	0.30	117.00
6/2/2017	email from DOJ, conf w Kristine	390	0.10	39.00
6/5/2017	Rickey NOA	390	0.10	39.00
6/5/2017	Rickey more time motion	390	0.10	39.00
6/6/2017	more time order	390	0.10	39.00
6/6/2017	CMP order	390	0.10	39.00
6/15/2017	BA section from Rickey	390	0.80	312.00
6/16/2017	conf w Kristine re status	390	0.30	117.00
6/22/2017	calls w Mike re status	390	0.30	117.00
6/25/2017	butte paper article on EPA cleanup, emails w Mike	390	0.40	156.00
7/4/2017	email from Rickey re dismiss	390	0.10	39.00
7/5/2017	conf w Kristine re dismiss	390	0.10	39.00
7/5/2017	emails re reinitiation w DOJ	390	0.20	78.00
7/24/2017	email from Rickey	390	0.10	39.00
8/2/2017	emails w Rickey re call	390	0.10	39.00
8/2/2017	EPA letter from Rickey	390	0.20	78.00
8/2/2017	call w Rickey	390	0.20	78.00
8/3/2017	conf call w Kristine and Mike	390	0.20	78.00
8/3/2017	email from Rickey re next steps, call w Mike	390	0.30	117.00
8/4/2017	emails from Rickey	390	0.10	39.00
8/7/2017	emails w Rickey, conf w Kristine	390	0.10	39.00
8/7/2017	more time motion	390	0.10	39.00
8/7/2017	more time order	390	0.10	39.00
8/7/2017	continue CMP motion	390	0.20	78.00
8/8/2017	Rickey email re BA	390	0.10	39.00
8/8/2017	extension order	390	0.10	39.00
8/10/2017	conf w Kristine, call w Mike re stay	390	0.40	156.00
8/10/2017	Rickey emails re stay	390	0.20	78.00
8/11/2017	Rickey email re CMP, conf w Kristine	390	0.20	78.00
8/13/2017	call w Mike re EPA cleanup status	390	0.10	39.00
8/21/2017	Rickey emails re CMP, conf w Kristine	390	0.30	117.00
8/21/2017	CMP filed	390	0.10	39.00
8/23/2017	stay order	390	0.10	39.00
8/24/2017	stay motion	390	0.10	39.00
8/30/2017	stay order	390	0.10	39.00
9/14/2017	call w Mike re status	390	0.10	39.00
11/30/2017	email from Rickey re status, emails w Mike	390	0.30	117.00
11/30/2017	email to Rickey	390	0.10	39.00
12/8/2017	stay motion	390	0.10	39.00

12/11/2017	stay order	390	0.10	39.00
2/2/2018	emails from Rickey	415	0.10	41.50
2/2/2018	review BA and cover letter	415	0.70	290.50
2/2/2018	conf w Kristine re status and strategy	415	0.50	207.50
2/7/2018	conf w Kristine, emails w client re status	415	0.20	83.00
2/13/2018	revise dismiss stip	415	0.30	124.50
2/15/2018	emails w Rickey, revise dismiss stip	415	0.30	124.50
2/16/2018	email from Rickey, dismiss stip	415	0.10	41.50
2/16/2018	draft fee dec	415	1.90	788.50
2/16/2018	dismiss order	415	0.10	41.50
2/16/2018	revise fee brief	415	1.10	456.50
2/20/2018	fee dec and brief	415	0.40	166.00
				-
<b>For professional services rendered</b>			<b>23.70</b>	<b>9,273.00</b>

EXPENSES:	Copies/Printing	
	Miscellaneous	
	Postage	
Total Expenses		-
TOTAL FEES AND EXPENSES		9,273.00